

AG Contract No.: KR05-0017TRN
ADOT ECS File No.: JPA 04-077
Project No.: TEA FLA 0(003)A
Section: SR 66 & US 89
Project: Route 66 Streetscape
TRACS No.: SL416 01C
Budget Source Item No.:

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AGREEMENT is entered into this date July 12, 2005, pursuant to Arizona Revised Statutes, § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. Congress has authorized appropriations for, but not limited to, twelve eligible categories of transportation enhancement activities.
4. Such Project lies within the boundary of the City and has been selected by the City; the survey of the Project has been completed; and the plans, estimates and specifications have been prepared and as required, submitted to Federal Highway Administration (FHWA) for its approval.
5. The City, in order to obtain Federal funds for the construction of the project, is willing to provide City funds to match Federal funds in the ratio required or as finally fixed and determined by the City, and FHWA, including actual construction engineering (CE) and administration costs.

27618
Filed with the Secretary of State
Date Filed: 7/12/05
Jennifer K. Shivers
Secretary of State
By: Marie Passerillo

6. The work embraced in this Agreement is for the design, construction and maintenance of a Multi-use trail and landscaping, under crossings at State Route (SR) 66 and US 89, and a culvert crossing near Lynch Road. In addition to this Enhancement Program the State shall design and construct a fourth leg of Cummings Road, herein and after referred to as the "Project". The parties agree that the State shall design and construct and upon completion of construction of the Project, the State shall abandon to the City and the City shall accept jurisdiction and maintenance responsibilities, as referenced in JPA 03-064 (attached). Summary of the funding is outlined below and as shown on Exhibit A (attached) \$1,600,762.00.

TRACS No.: SL416 01D

***Total Estimated Design Costs** **\$101,714.00**

Estimated City funds @ 100% for Design Costs **\$101,714.00**

TRACS No.: SL416 01C

***Total Estimated Construction Costs** **\$662,136.00**

Estimated Federal-aid funds @ 94.3% Local STP funds (capped) **\$500,000.00**

Estimated City funds @ 5.7% (capped) **\$ 30,223.00**

Estimated City funds @ 100% for Construction **\$131,913.00**

Total Estimated City funds for Construction **\$162,136.00**

TRACS No.: H5106 01C

***Total Estimated Construction Costs** **\$836,912.00**

Project of Opportunity **\$600,000.00**

Flagstaff District Minor **\$200,000.00**

Estimated City funds @ 100% **\$ 36,912.00**

Total Estimated City Funds for both referenced projects **\$300,762.00**

*(Includes design, construction, construction engineering administration and incidentals)

THEREFORE, inconsideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall:

a. Submit a program to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for construction.

b. Upon approval by FHWA, receipt of the City's matching funds; and with the aid and consent of the City and the FHWA, the State shall proceed to advertise for, receive and open bids subject to the concurrence of FHWA and the City, enter into a contract(s) with a firm(s) to whom the award is made for the construction of the Project. Such Project's shall be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans, Special Provisions and Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation (ADOT).

c. Prepare design plans, specifications and other documents and services required for construction bidding and construction of the Project, and submit to the City for comments as appropriate.

d. On behalf of the City, the State shall enter into a Project Agreement with FHWA covering the work embraced in said construction contract and request the maximum authorized federal funds available, including construction engineering and administration costs. Should costs exceed the maximum federal funds available, it is understood and agreed that the City shall be responsible for any overage of, currently estimated and shown on Exhibit "A". The City is responsible for the total estimated amount of \$300,762.00.

e. Not be obligated to maintain this Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

2. The City shall:

a. Upon execution of this Agreement, designate the State as authorized agent for the City and within thirty-days (30) upon receipt of an invoice, shall deposit funds with the State in the estimated amount of \$300,762.00 determined to be necessary to match Federal Funds in the ratio required and excess estimated amount for the construction costs of the Project. The City is entirely responsible for all costs and other liabilities incurred by the State in performing and accomplishing the work as set forth in this Agreement whether covered by Federal funding or not.

b. Review the design documents for construction of the Project, and provide comments to the State as appropriate.

c. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of scope of the work requested by the City. Such changes require the prior approval of the State.

d. Not permit or allow any encroachments, except those authorized by permit, upon or private use of the right-of-way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

e. Upon completion and acceptance of the Project, provide for, at its own cost and as an annual item in its budget, perpetual and proper maintenance of the Project improvements. This Agreement may be assumed by another governmental entity under the same stipulations.

f. Certify that all necessary rights-of-way have been or will be acquired prior to advertisement for bid for the fourth leg of Cummings Street.

g. Removed from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, and hereby certifies that all obstructions and encroachments have been or will be removed prior to advertisement for bid, for the fourth leg of Cummings Street.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement. The City assumes full responsibility for cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify the State, from loss of any of its departments, agencies, officers or employees from any and all costs and/or damages incurred by any of the above and from any other damage to any person or property whatsoever, that is caused by any activity, condition or event arising out of the performance, nonperformance or negligent performance of any provisions of this Agreement by the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include any action, court costs, and expenses of litigation or attorneys' fees.

2. The cost of the construction and construction engineering work covered by this Agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this Agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received.

3. This Agreement shall remain in full force and effect until completion of the work; provided, however, that the City's responsibility to maintain Project improvements shall be perpetual, unless assumed by another governmental entity.

4. This Agreement shall become effective upon filing with the Secretary of State.
5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.
6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.
7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.
8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ 85007
(602)-712-7525

City of Flagstaff
Attn: City Manager
211 W. Aspen Avenue
Flagstaff, AZ 86001
(928)-779-7604

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the performance of this Agreement, this Agreement may be terminated by the State or the City at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised as a result of termination under this paragraph.

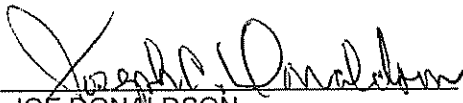
11. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that this Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF FLAGSTAFF

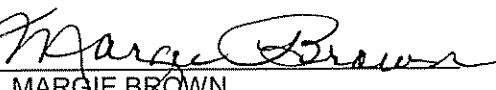
STATE OF ARIZONA

Department of Transportation

By 
JOE DONALDSON
Mayor

By 
SAM MAROUFKHANI, P.E.
Acting State Engineer

ATTEST


By 
MARGIE BROWN
City Clerk

JPA 04-077

APPROVAL OF THE CITY OF FLAGSTAFF

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF FLAGSTAFF, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 10th day of June, 2005.


City Attorney

EAST FLAGSTAFF TRAFFIC INTERCHANGE
DESCRIPTION AND COST OF PAY ITEMS FOR THE CITY OF FLAGSTAFF

ITEM	DESCRIPTION	COST		TOTAL	DESCRIPTION
		DESIGN (8%)	CONSTRUCTION		
1	TRAIL	\$12,616.00	\$181,354.00	\$193,970.00	Additional trail system requested by City of Flagstaff
2	LANDSCAPING	\$31,610.00	\$454,394.00	\$486,004.00	Additional landscaping developed by Aesthetics Committee
3	TRAIL CROSSINGS	\$57,488.00	\$826,388.00	\$883,876.00	Trail crossings requested by City of Flagstaff including underpasses & pipe culvert crossing near Lynch Ave
4	MALL ENTRANCE		\$36,912.00	\$36,912.00	New Flagstaff Mall Entrance at Cummings Street
SUBTOTAL ITEMS 1 - 4				\$1,600,762.00	
PROJECT OF OPPORTUNITY FUNDING				(\$600,000.00)	
ADOT DISTRICT MINOR FUNDING				(\$200,000.00)	
TEA-21 LOCAL STP FUNDING				(\$500,000.00)	
CITY OF FLAGSTAFF TOTAL				\$300,762.00	

NOTE: This includes construction surveying and layout, mobilization, and construction engineering and administration.

ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	ITEM 1 - TRAIL (SEE NOTE 1)				
2	9080242 CONCRETE SIDEWALK (TRAIL)	SQ.FT.	34,583	\$4.00	\$138,332.00
3	SUBTOTAL ITEM 1 - TRAIL				\$138,332.00
4	CONSTRUCTION SURVEYING AND LAYOUT SHARE			2%	\$2,767.00
5	CONTRACTOR QUALITY CONTROL SHARE			2%	\$2,767.00
6	MOBILIZATION SHARE			10%	\$13,833.00
7	SUBTOTAL CONSTRUCTION COST (ITEM 1)				\$157,699.00
8	DESIGN			8%	\$12,616.00
9	CONSTRUCTION ENGINEERING AND ADMINISTRATION			15%	\$23,655.00
10	TOTAL ITEM 1 -TRAIL (SEE NOTE 1)				\$193,970.00
11					
12	ITEM 2 - LANDSCAPING & IRRIGATION				
13	7370480 PROVIDE ELECTRICAL SERVICE	L.SUM	1	\$5,000.00	\$5,000.00
14	7378910 WIRE AND CABLE	L.SUM	1	\$800.00	\$800.00
15	8020001 LANDSCAPE GRADING	SQ.YD.	170,820	\$0.05	\$8,541.00
16	8030117 ROCK MULCH (CINDERS)	SQ.YD.	476,060	\$0.07	\$33,324.00
17	8061009 TREE (24" BOX) (	EACH	371	\$250.00	\$92,750.00
18	8061068 TREE (2 1/2 in CALIPER)(B&B)	EACH	47	\$400.00	\$18,800.00
19	8061298 SHRUB (FIVE GALLON)	EACH	895	\$20.00	\$17,900.00
20	8070001 LANDSCAPING ESTABLISHMENT	L.SUM	1	\$12,600.00	\$12,600.00

ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	8080011 BACKFLOW PREVENTION UNIT (ATMOSPHERIC) (3/4")	EACH	1	\$1,500.00	\$1,500.00
2	8080040 BACKFLOW PREVENTION ASSEMBLY ENCLOSURE	EACH	1	\$1,500.00	\$1,500.00
3	8080045 FLOW METER	EACH	1	\$1,050.00	\$1,050.00
4	8080049 EMITTER (ASSEMBLY) (MULTI OUTLET)	EACH	565	\$14.00	\$7,910.00
5	8080051 EMITTER (ASSEMBLY) (SINGLE OUTLET)	EACH	35	\$7.00	\$245.00
6	8080069 SPRINKLER HEAD (GEAR DRIVE)	EACH	232	\$30.00	\$6,960.00
7	8080132 QUICK COUPLING VALVE (3/4")	EACH	13	\$125.00	\$1,625.00
8	8080142 CONTROLLER (AUTOMATIC) ((40 STATION)	EACH	2	\$2,500.00	\$5,000.00
9	8080147 AUTOMATIC CONTROLLER ENCLOSURE (	EACH	1	\$8,000.00	\$8,000.00
10	8080167 CONTROL VALVE (REMOTE) (ELECTRIC) (3/4")	EACH	18	\$300.00	\$5,400.00
11	8080172 CONTROL VALVE (REMOTE) (ELECTRIC) (2")	EACH	20	\$400.00	\$8,000.00
12	8080182 MASTER VALVE	EACH	1	\$500.00	\$500.00
13	8080215 GATE VALVE (1 1/2")	EACH	1	\$200.00	\$200.00
14	8080219 GATE VALVE (3")	EACH	5	\$300.00	\$1,500.00
15	8080220 GATE VALVE (4")	EACH	1	\$500.00	\$500.00
16	8080243 FLUSH LINE ASSEMBLY (3/4 IN)	EACH	36	\$100.00	\$3,600.00
17	8080246 DRAIN VALVE (MANUAL) (3/4")	EACH	6	\$300.00	\$1,800.00
18	8080285 PIPE (PVC) (6") (SCHEDULE 40)	L.F.T.	305	\$4.00	\$1,220.00
19	8080303 PIPE (PVC) (1/2") (SCHEDULE 40)	L.F.T.	2,000	\$0.75	\$1,500.00
20	8080313 PIPE (PVC) (3/4") (SCHEDULE 40)	L.F.T.	20,849	\$1.50	\$31,273.50

	ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	8080324	PIPE (PVC) (1") (SCHEDULE 40)	L.FT.	3,900	\$1.75	\$6,825.00
2	8080344	PIPE (PVC) (1 1/2") (SCHEDULE 40)	L.FT.	3,750	\$2.00	\$7,500.00
3	8080364	PIPE (PVC) (2") (SCHEDULE 40)	L.FT.	2,450	\$2.50	\$6,125.00
4	8080384	PIPE (PVC) (3") (SCHEDULE 40)	L.FT.	4,450	\$3.50	\$15,575.00
5	8080394	PIPE (PVC) (4") (SCHEDULE 40)	L.FT.	2,675	\$4.50	\$12,037.50
6	8080534	PIPE (BLACK STEEL) (12")	L.FT.	200	\$12.00	\$2,400.00
7	8080611	PROVIDE WATER SERVICE	L.SUM	1	\$10,000.00	\$10,000.00
8	8080632	WATER METER (FOR 3/4" SERVICE)	EACH	1	\$340.00	\$340.00
9	8080637	WATER METER (FOR 4" SERVICE)	EACH	1	\$4,000.00	\$4,000.00
10	9090041	VALVE BOX, FRAME AND COVER	EACH	28	\$100.00	\$2,800.00
11		SUBTOTAL ITEM 2 - LANDSCAPING & IRRIGATION				\$346,601.00
12		CONSTRUCTION SURVEYING AND LAYOUT SHARE			2%	\$6,932.00
13		CONTRACTOR QUALITY CONTROL SHARE			2%	\$6,932.00
14		MOBILIZATION SHARE			10%	\$34,660.00
15		SUBTOTAL CONSTRUCTION COST (ITEM 2)				\$395,125.00
16		DESIGN			8%	\$31,610.00
17		CONSTRUCTION ENGINEERING AND ADMINISTRATION			15%	\$59,269.00
18		TOTAL ITEM 2 -LANDSCAPING & IRRIGATION				\$486,004.00
19						
20		ITEM 3 - TRAIL CROSSINGS				

	ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	9999903	B US 89 TRAIL UNDERPASS STRUCTURE	L.SUM	1	\$346,043.00	\$346,043.00
2	9999903	C US 66 TRAIL UNDERPASS STRUCTURE	L.SUM	1	\$253,506.00	\$253,506.00
3	5012524	STORM DRAIN PIPE, 24" (LYNCH AVE TRAIL CROSSING)	L.FT.	600	\$50.00	\$30,000.00
4	5014524	FLARED END SECTION, 24" (C-13.20 OR C-13.25) (PIPE CULVERT)	EACH	2	\$400.00	\$800.00
5		SUBTOTAL ITEM 3 - TRAIL CROSSINGS				\$630,349.00
6		CONSTRUCTION SURVEYING AND LAYOUT SHARE			2%	\$12,607.00
7		CONTRACTOR QUALITY CONTROL SHARE			2%	\$12,607.00
8		MOBILIZATION SHARE			10%	\$63,035.00
9		SUBTOTAL CONSTRUCTION COST (ITEM 3)				\$718,598.00
10		DESIGN			8%	\$57,488.00
11		CONSTRUCTION ENGINEERING AND ADMINISTRATION			15%	\$107,790.00
12		TOTAL ITEM 3 -TRAIL CROSSINGS				\$883,876.00
13						
14		ITEM 4 - MALL ENTRANCE				
15	2020021	REMOVAL OF CONCRETE CURB AND GUTTER	L.FT.	148	\$4.00	\$592.00
16	2020025	REMOVAL OF CONCRETE SIDEWALKS, DRIVEWAYS AND SLABS	SQ.FT.	634	\$2.00	\$1,268.00
17	2020029	REMOVAL OF ASPHALTIC CONCRETE PAVEMENT	SQ.YD.	33	\$3.00	\$99.00
18	2020201	SAW CUTTING	L.FT.	150	\$2.00	\$300.00
19	3030022	AGGREGATE BASE, CLASS 2	CU.YD.	211	\$20.00	\$4,220.00
20	4040111	BITUMINOUS TACK COAT	TON	1	\$190.00	\$190.00

	ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	4040116	APPLY BITUMINOUS TACK COAT	HOUR	1	\$130.00	\$130.00
2	4040125	FOG COAT	TON	1	\$350.00	\$350.00
3	4040163	BLOTTER MATERIAL	TON	1	\$35.00	\$35.00
4	4040264	ASPHALT BINDER (PG 64-22)	TON	16	\$175.00	\$2,800.00
5	4060006	ASPHALTIC CONCRETE (3/4" MIX)	TON	311	\$25.00	\$7,775.00
6	4060026	MINERAL ADMIXTURE (FOR 3/4" MIX)	TON	3	\$90.00	\$270.00
7	7040003	PAVEMENT MARKING (WHITE SPRAYED THERMOPLASTIC)(0.060")	L.FT.	2,010	\$0.30	\$603.00
8	9080101	CONCRETE CURB AND GUTTER, TYPE A (MAG DET. 220)	L.FT.	225	\$15.00	\$3,375.00
9	9080108	CONCRETE SINGLE CURB (MAG DET. 222)(TYPE A) (	L.FT.	144	\$12.00	\$1,728.00
10	9080150	CONCRETE MEDIAN PAVEMENT	SQ.FT.	280	\$2.00	\$560.00
11	9080241	CONCRETE SIDEWALK (MAG DET. 230 & 231)	SQ.FT.	680	\$3.00	\$2,040.00
12	9080299	CONCRETE SIDEWALK RAMP (	SQ.FT.	364	\$5.00	\$1,820.00
13		SUBTOTAL ITEM 4 - MALL ENTRANCE				\$28,155.00
14		CONSTRUCTION SURVEYING AND LAYOUT SHARE			2%	\$563.00
15		CONTRACTOR QUALITY CONTROL SHARE			2%	\$563.00
16		MOBILIZATION SHARE			10%	\$2,816.00
17		SUBTOTAL CONSTRUCTION COST (ITEM 4)				\$32,097.00
18		DESIGN			0%	\$0.00
19		CONSTRUCTION ENGINEERING AND ADMINISTRATION			15%	\$4,815.00
20		TOTAL ITEM 4 -MALL ENTRANCE				\$36,912.00

	ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1						
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13		NOTE 1: Trail cost based on a 60/40 split of total sidewalk & trail quantity with ADOT at 60% and City of Flagstaff at 40%.				
14						
15						
16						
17						
18						
19						
20						

AG Contract No. KR04-0457TRN
ADOT ECS File No. JPA 03-64
TRACS No.: ~~H5106-04-TBD~~ 14668801C
Section: Airport Road TI (JW Powell Blvd Delay)
East Flagstaff TI Improvements (Route Transfer
of Specified State routes within the Flagstaff City
limits)
BUDGET SOURCE Item No.: ~~TBD~~ 22505

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF FLAGSTAFF

THIS AGREEMENT is entered into the 20th of August, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954 as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes Section 9-240 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.
3. The State and City desire to participate in a joint effort of two projects located within the City to include the following: a.) The East Flagstaff Traffic Interchange (TI); and, b) Transfer of portions of State routes (identified herein) to the City, for the safety and benefit of the traveling public. The purpose of this agreement is to set forth the responsibilities of the parties hereto.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27017
Filed with the Secretary of State
Date Filed: 08/20/04
Jenice K. Brewer
Secretary of State

By: Tim D. Greenewold

II. SCOPE OF WORK

1. The State and the City agree it is in the best interest of the parties herein:

a. To delete the improvement project named Airport Road TI, identified in the State's Fiscal Year (FY) 2004-2008 5-Year Construction Program as J.W. Powell Boulevard, (Item Number 12405 in FY 05), and replace it with a new project named East Flagstaff TI, identified in the State's FY 2004-2008 5-Year Construction Program for FY 05.

b. The State to recommend to the State's Transportation Board, the reprogramming of the J.W. Powell Boulevard project for construction, during the next State Transportation Facilities Construction Programming Cycle, FY 2005-2009.

c. The State to recommend to the State's Transportation Board, the State fully fund the construction of the East Flagstaff TI improvements at an estimated cost of \$20,000,000.00.

d. The City to be the lead agency for the design, construction, construction contingencies and construction administration of a pavement preservation project on Frontage Road 40 (F-40) (MP) 200.54 to (MP) 203.72, hereinafter referred to as the "Project", within the City.

2. The State will:

a. Upon execution of this agreement, filing with the Secretary of State and within thirty (30) days after receipt and approval of an invoice, remit to the City the total amount, not to exceed \$2,000,000 the State's total lump sum participation for the design, construction, construction contingencies and administration of the Project improvements, to be done by the City on F-40 (MP) 200.54 to (MP) 203.72, as shown on Exhibit A. Funding for the Project will be available in FY 2005, upon approval by Resolution of the State Transportation Board.

b. Agree the City shall be the lead agency of the Project and upon execution of this agreement, approval by Resolution of the State Transportation Board, and following the transfer of funds as shown in II.2 a. herein, on or about July 1, 2004 abandon in its entirety all aspects of rights of way to the City, including appurtenant easements, existing structures and traffic signals, for the following State routes within the City of Flagstaff: (with the exception of the segments shown in II., 2., c., below)

B-40 (MP) 199.72 to (MP) 200.71
F-40 (MP) 199.96 to (MP) 204.22
US 89 (MP) 418.74 to (MP) 420.33

For a total of 6.84 miles, shown on Exhibit A.

c. Temporarily retain ownership jurisdiction and maintenance responsibilities for the following State routes within the City of Flagstaff until completion of the East Flagstaff TI construction (ADOT final acceptance), at which time the State will abandon, by an additional Resolution of the State Transportation Board, the remaining segments described below to the City of Flagstaff:

B-40 (MP) 199.72 to (MP) 200.71
F-40 (MP) 199.96 to (MP) 200.54
US 89 (MP) 418.74 to (MP) 419.11

3. The City will:

- a. Waive the requirements of Arizona Revised Statutes Section 28-7209.
- b. Within thirty (30) days of the execution of this agreement and filing with the Secretary of State, invoice the State the total lump sum amount not to exceed \$2,000,000 for State's total lump sum participation for the design, construction, construction contingencies and administration, the State's total participation of the Project improvements, to be done by the City on F-40 (MP) 200.54 to (MP) 203.72, shown on Exhibit A.
- c. Provide design plans, specifications and such other documents and services required for construction bidding and construction of the Project.
- d. Upon execution of this agreement, approval by resolution of the State Transportation Board, and receipt of the funds identified in II.2.a. herein, on or about July 1, 2004 accept, in its entirety all aspects of rights of way from the State, including appurtenant easements, existing structures and traffic signals, for the following State routes within the City of Flagstaff: (with the exception of the segments shown in II., 2., c., below)

B-40 (MP) 199.72 to (MP) 200.71
F-40 (MP) 199.96 to (MP) 204.22
US 89 (MP) 418.74 to (MP) 420.33

For a total of 6.84 miles, shown on Exhibit A.

- e. Agree the State shall temporarily retain ownership jurisdiction and maintenance responsibilities for the following State routes within the City of Flagstaff until completion of the East Flagstaff T1 construction (ADOT final acceptance), at which time the City will accept from the State, through an additional Resolution of the State Transportation Board, the remaining segments described below:

B-40 (MP) 199.72 to (MP) 200.71
F-40 (MP) 199.96 to (MP) 200.54
US 89 (MP) 418.74 to (MP) 419.11

- f. Provide to the State a Temporary Construction Easement (TCE) for; all necessary City owned property needed for the State to construct the J.W. Powell Boulevard improvement project.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this agreement shall remain in force and effect until completion of all property donations by the City, Project payment identified in II.2.a. above, and the State's recommendations to and approvals by the State Transportation Board; provided, however, that this agreement, except any provisions for abandonment, which shall be perpetual, may be cancelled at any time upon thirty (30) days written notice to the other party, prior to the State's payments to the City, of the Project funds identified under this agreement.

2. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees), hereinafter collectively referred to as "claims", arising out of bodily injury of any person (including death) or property damage in connection with the subject matter of this agreement, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents employees, or volunteers.

3. This agreement shall become effective upon filing with the Secretary of State.
4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.
5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

7. **Non-Availability of Funds:** Every payment obligation of State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Contract

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

City of Flagstaff
City Manager
211 West Aspen Avenue
Flagstaff, AZ 86001-5399


For Accounting

Arizona Department of Transportation
Contract Accounting
206 South 17 Avenue, Mail Drop 202B
Phoenix, AZ 85007

10. In accordance with Arizona Revised Statutes Section 11-952, (D), attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF FLAGSTAFF

By 
JOSEPH C. DONALDSON
Mayor

By 
HARRY M. LANE
Interim City Attorney

ATTEST

By 
MARGIE BROWN
Acting City Clerk

STATE OF ARIZONA

Department of Transportation, Operations

Department of Transportation, Development

By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer

By 
SAM MAROUFKHANI, P.E.
Deputy State Engineer

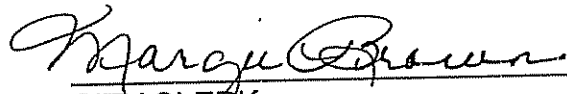
BUDGET SOURCE APPROVAL:

By 
Fiscal Services Manager

CERTIFICATION

I, Margie Brown, City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2004-48 adopted by the Flagstaff City Council at their Regular Meeting held June 1, 2004.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 15th day of June, 2004.


CITY CLERK

(SEAL)

RESOLUTION NO. 2004-48

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA THROUGH THE DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF AUTHORIZING FUNDING OF CONSTRUCTION OF EAST FLAGSTAFF TRAFFIC INTERCHANGE IMPROVEMENTS AND TRANSFER OF 6.8 MILES OF STATE ROUTES TO THE CITY OF FLAGSTAFF

WHEREAS, the State of Arizona ("State") through the Arizona Department of Transportation ("ADOT") and the City of Flagstaff ("City") have negotiated and desire to enter into an Intergovernmental Agreement ("IGA") pursuant to which the State would fully fund the construction of the East Flagstaff Traffic Interchange ("East Flag TI") improvements at an estimated cost of \$20,000,000.00 and provide the City with \$2,000,000.00 of additional funding for the design, construction, construction contingencies and administration of Frontage Road 40 (F-40) improvements; and

WHEREAS, under the IGA the City would be the lead agency for the project; and

WHEREAS, under the IGA the State would abandon to the City State Routes B-40 (MP) 199.72 to (MP) 200.71; F-40 (MP) 199.96 to (MP) 204.22; US 89 (MP) 418.74 to (MP) 420.33 for a total of 6.84 miles following approval of the IGA and transfer of the above referenced \$2,000,000.00 to the City; and

WHEREAS, under the IGA the State would retain ownership during construction of the East Flag TI and then abandon to the City State Routes B-40 (MP) 199.72 to (MP) 200.71; F-40 (MP) 199.96 to (MP) 200.54; and US 89 (MP) 418.74 to (MP) 419.11 following completion and ADOT final acceptance of the East Flag TI construction; and

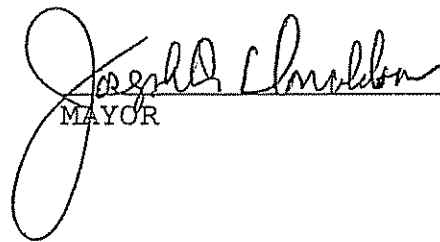
WHEREAS, the City Council has reviewed the proposed IGA and finds that it is in the best interests of the City to enter into the IGA with the State;


NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the Intergovernmental Agreement between the State and the City submitted as an attachment to the Staff Summary Report for the City Council meeting of June 1, 2004, be hereby approved and the Mayor be authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Flagstaff.

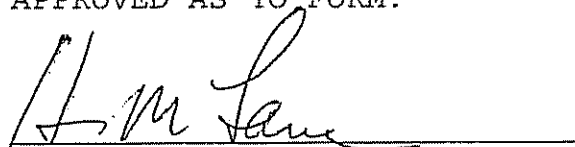
PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 1st day of June, 2004.

ATTEST:


MAYOR


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY



TERRY GODDARD
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TRANSPORTATION SECTION
WRITER'S DIRECT NO: 602.542.8837

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-0457-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

Date: 13 August 2004

Terry Goddard
ATTORNEY GENERAL

James R. Redpath
Assistant Attorney General
Transportation Section

JRR:djd:780214

CITY LIMITS MP 420.3

TRAILS END

SMOKE RISE DR

US-89, MP 419.11



EMPIRE DR

RAILHEAD AVE

N. SPUR

F-40, MP 200.54

NESTLE-PURINA DR

INDUSTRIAL DR

FANNING DR

LOCKETT RD

F-40, MP 199.96

B-40, MP 200.71

B-40, MP 199.72

NOTE:
TRANSFER OF OWNERSHIP TO OCCUR
UPON COMPLETION OF EAST
FLAGSTAFF TRAFFIC INTERCHANGE
CONSTRUCTION

US-89, MP 418.74

CUMMINGS ST

COUNTRY CLUB DR

F-40, FRONTAGE RI

ARIZONA DEPARTMENT OF
EAST FLAGSTAFF
EX.

RESOLUTION NO. 2005-59

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA ("STATE") AND THE CITY OF FLAGSTAFF ("CITY") FOR THE DESIGN, CONSTRUCTION AND MAINTENANCE OF A MULTI-USE TRAIL LOCATED UNDER CROSSINGS AT STATE ROUTE 66 AND US HIGHWAY 89 NEAR LYNCH ROAD, AND FOR LANDSCAPING AND THE FOURTH LEG OF CUMMINGS ROAD.

WHEREAS, Congress has authorized appropriations for, but not limited to, twelve (12) eligible categories of transportation enhancement projects through programs administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the City has selected such a project as a multi-use trail to be located under crossings at State Route 66 and U.S. Highway 89 near Lynch Road, and for landscaping and the fourth leg of Cummings Road ("Project"); and

WHEREAS, the State has submitted the Project plans, estimates and specifications, and the City has submitted a survey of the Project to the FHWA for approval; and; and

WHEREAS, the State desires to participate with the City in the Project by entering into a Project Agreement with the FHWA for funding approval; by requesting the maximum authorized Federal funds available; by providing design plans and specifications and such other documents and services required for construction bidding and construction of the Project; and by advertising for, receiving and opening construction bids for the Project subject to the concurrence of the FHWA; and

WHEREAS, the City desires to participate with the State in the Project by providing matching funds in the total amount of \$300,762.00 for the Project, and by providing for the perpetual maintenance of all Project improvements upon Project completion; and

WHEREAS, the City and the State desire to enter into an intergovernmental agreement ("IGA") providing for the

responsibilities of the City and the State in their participation in the Project; and

WHEREAS, the City and the State's Department of Transportation desire to obtain City Council approval for the City's entry into the IGA; and

WHEREAS, the City and the State are authorized by Arizona Revised Statutes §§11-951 through 954, 48-572 and 28-401, to enter into the IGA; and

WHEREAS, the City Council has reviewed the proposed IGA and finds that it is in the best interests of the City to enter into the IGA with the State;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AS FOLLOWS:

SECTION 1. That the Intergovernmental Agreement between the City and the State submitted as an attachment to the Staff Summary in support of this resolution be hereby approved, and the Mayor be authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Flagstaff.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 26th day of May, 2005.

ATTEST:

Laura Matthews for
CITY CLERK

APPROVED AS TO FORM:

Quintin J. Martinez for
CITY ATTORNEY

Joseph R. Donaldson
MAYOR

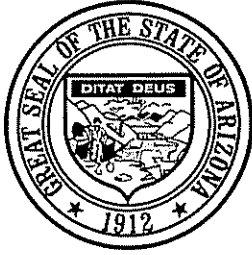
CERTIFICATION

I, LAURA MATTHEWS, Deputy City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2005-59, adopted by the Flagstaff City Council at their Meeting held May 26, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 21st day of June, 2005.

Laura Matthews
DEPUTY CITY CLERK

(SEAL)



**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646


**INTERGOVERNMENTAL AGREEMENT
DETERMINATION**

A.G. Contract No. KR05-0017TRN (**JPA 04-077**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED July 6th, 2005.

TERRY GODDARD
Attorney General



JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

SED:dgr
Attachment
912844